

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

In re: SCC KYLE PARTNERS, LTD., Debtor.	§ § § § §	Case No. 12-11978-HCM (Chapter 11)
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STATEMENT OF ISSUES ON APPEAL

Whitney Bank, successor-by-merger to Whitney National Bank, individually and as agent for certain pre-petition lenders (collectively, "Whitney Bank"), pursuant to Bankruptcy Rule 8006, submits its statement of issues to be presented in the appeal of the Order Confirming Debtor's Second Amended Plan of Reorganization under Chapter 11, Title 11, United States Code [Docket No. 133]:

ISSUES PRESENTED:

1. The bankruptcy court erred in counting the vote of Seton Family of Hospitals as a vote accepting the Debtor's Second Amended Plan of Reorganization Under Chapter 11, Title 11, United States Code (the "Plan") because Seton does not hold a voting interest in the bankruptcy estate as it is not a creditor or equity security holder of the Debtor under the Bankruptcy Code.
2. The bankruptcy court erred in confirming the Plan over Whitney Bank's rejection of the Plan because the Debtor did not have at least one impaired class accept the Plan as required under 11 U.S.C. §1129(a)(10).
3. The bankruptcy court erred in modifying the Order Approving Sale of Real Estate to Avail Healthcare Ventures, LLC Free and Clear of Liens under 11 U.S.C. §363(f), entered on December 17, 2012, to reclassify a portion of the net sale proceeds payable to Whitney Bank

under that final judgment as “prepaid interest” and to require the balance of the proceeds to be applied to principal by confirming the Plan.

4. The bankruptcy court erred in confirming the Plan because the treatment of Whitney Bank’s secured claim is not fair and equitable and Whitney Bank is not provided with the indubitable equivalent of its claim under the Plan.

5. The bankruptcy court erred in confirming the Plan because the Plan is not feasible and confirmation of the Plan is likely to be followed by the liquidation, or need for further financial reorganization of the Debtor, as this is a single asset real estate bankruptcy case involving non-income producing property and the Debtor has no income stream or other source of funds sufficient to make the payments required under the Plan other than through speculative future sales of the real estate.

6. The bankruptcy court erred in confirming the Debtor’s Plan because the Plan shifts the risk of failure to Whitney Bank, Debtor’s secured creditor.

7. The bankruptcy court erred in confirming the Plan because the Debtor lacked good faith in proposing the Plan and in the actions the Debtor took with respect to the five year old unfulfilled charitable pledge to Seton Hays Foundation.

DATED: July 29, 2013

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 29th day of July 2013, a true and correct copy of this document was served electronically on all registered ECF users in this case, and by U.S. first class mail on all persons identified below.

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